

REMARKS / ARGUMENTS

Claims 140-147 are pending in the present application.

The Examiner has requested Applicant to disclose co-pending applications and related patents which may present double patenting issues with the claims of this application. Claims 140-147 were rejected over various co-pending applications and issued patents for double patenting.

Applicants appreciate the Examiner taking the time to discuss the double patenting issues last week during our trip to the Patent Office. As agreed, Applicants submit with this amendment a docket of co-pending applications which may have claims relevant to the pending claims in this application. Applicants also submit herewith a copy of pending claims in a number of the copending applications for the Examiner to consider.

Applicants also submit herewith a Terminal Disclaimer over copending application 09/699,215 (Atty Docket No. 003-006C4) for which the issue fee has been paid.

Claims 140-147 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,295,484 to Marcus et al. (hereafter "Marcus").

Discussion

Amended independent claim 140 is allowable over Marcus since Marcus does not disclose or suggest "positioning the ablating device against an epicardial surface." Marcus is directed to a catheter which is introduced into the patient's heart rather than being positioned on an epicardial surface as claimed.

Amended independent claim 140 is also allowable over Marcus since Marcus does not disclose or suggest that "each of the first and second ultrasound emitting elements emitting focused ultrasound having a focal length of 2-20 mm." Marcus fails to disclose two

separate ultrasound emitting elements which both emit focused ultrasound having the claimed focal length.

Applicants submit that independent claim 144 is allowable over Marcus for similar reasons that claim 140 distinguishes over Marcus, namely, that Marcus does not disclose "providing an ablating device having a body with a first ultrasound emitting element and a second ultrasound emitting element, the first and second ultrasound emitting elements both producing focused ultrasound" and "positioning the ablating device at an epicardial location."


Applicants further submit that claim 144 distinguishes over Marcus since Marcus fails to disclose that the first and second ultrasound emitting elements which produce the focused ultrasound having have "different focal lengths relative to the body." Nowhere does Marcus suggest two different ultrasound emitting elements which each produce focus ultrasound let alone two different ultrasound emitting elements having different focal lengths as claimed.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

September 11, 2003

Date


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